

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EBAY (UK) LIMITED,
Plaintiff,
v.
GRAVITY4, INC.,
Defendant.

Case No. 19-cv-0522 NC

**ORDER CONTINUING CMC AND
HEARING ON MOTION FOR
DEFAULT JUDGMENT; ORDER TO
SHOW CAUSE RE: SUBJECT
MATTER JURISDICTION**

New Hearing: July 10, 2019, 1:00 p.m.

Federal courts possess limited jurisdiction, which means that this Court may only resolve disputes in subject matter categories permitted by the Constitution or laws of the United States. The Court has an independent obligation to examine subject matter jurisdiction. If subject matter jurisdiction is lacking, the Court must dismiss the case even if no party to the case moves for dismissal. Any doubts about jurisdiction should be resolved against federal jurisdiction.

In the present case, plaintiff eBay (UK) Limited is a United Kingdom corporation that sues another corporation, Gravity4, Inc. for breach of contract. The plaintiff has moved for default judgment and a hearing is set for June 19. ECF 14.

Before the Court may rule on the motion for default judgment, subject matter jurisdiction must be satisfied. In the complaint, eBay asserts that jurisdiction is fulfilled

1 under the diversity of citizenship statute, 28 U.S.C. § 1332(a). Complaint, ECF 1, ¶ 12.
2 Generally speaking, that statute provides that jurisdiction is satisfied if there is complete
3 diversity of citizenship between the parties and the amount in controversy exceeds
4 \$75,000.

5 Here, plaintiff eBay (UK) Limited alleges that it is a “foreign corporation organized
6 under the laws of the United Kingdom with its principal place of business in London,
7 England.” Complaint ¶ 10. Defendant Gravity4, Inc. is alleged to be a “foreign
8 corporation organized under the laws of Delaware, previously authorized to do business in
9 the state of California and the state of Florida, with former principal place of business in
10 San Francisco, California, and Miami, Florida.” Complaint ¶ 11. The Complaint does not
11 expressly say where Gravity4 is incorporated and where its principal place of business was
12 at the time of the Complaint. Plaintiff demands more than \$2 million in compensatory
13 damages, so the “amount in controversy” threshold is easily exceeded. Complaint, Prayer
14 for Relief at p. 6:9.

15 The unresolved question is whether there is complete diversity of citizenship
16 between the parties. A few foundational concepts underlie this analysis.

17 First, citizenship for a corporation is determined under 28 U.S.C. § 1332(c)(1): “a
18 corporation shall be deemed to be a citizen of every State and foreign state by which it has
19 been incorporated and of the State or foreign state where it has its principal place of
20 business.”

21 Second, diversity jurisdiction does not encompass a suit between two foreign
22 corporations. *Cheng v. Boeing*, 708 F.2d 1406, 1412 (9th Cir. 1983); *see* 28 U.S.C. §
23 1332(a).

24 And third, diversity is determined at the time the action is filed. *Smith v. Snerling*,
25 354 U.S. 91, 93 n.1 (1957). Plaintiff’s allegations about Gravity4’s “former” principal
26 places of business are therefore jurisdictionally irrelevant. Complaint ¶ 11.

27 At bottom, given that paragraphs 10 and 11 of the Complaint allege that both
28 plaintiff and defendant are “foreign corporations,” it appears that complete diversity is not

1 established. Plaintiff is ordered to show cause in writing by July 1, 2019, as to why this
2 case should not be dismissed, and the motion for default judgment denied, due to lack of
3 subject matter jurisdiction. If plaintiff seeks to amend the Complaint to address the
4 subject matter jurisdiction question, it must do so by July 1. The CMC and hearing on
5 default judgment are both continued from June 19 to July 10, 2019, at 1:00 p.m. in San
6 Jose courtroom 5. Plaintiff is ordered to serve on Gravity4: the motion for default
7 judgment, this Order, its response to the Order to Show Cause, and any amended
8 Complaint. Plaintiff must file a certificate of service by July 8.

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10 **IT IS SO ORDERED.**

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12 Dated: June 17, 2019

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15 NATHANAEL M. COUSINS
16 United States Magistrate Judge
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